

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

NICOLE ZUNIGA,
Plaintiff,

VS.

**JOHNNY L. EDSON, TRUCKMOVERS
INTERNATIONAL, INC.,
TRUCKMOVERS.COM, INC.,
DEALER'S CHOICE TRUCKAWAY
SYSTEM, INC., INDIVIDUALLY AND
DBA TRUCKMOVERS AND
TRUCKMOVERS, INDIVIDUALLY,
*Defendants.***

CIVIL CASE NO. 5:22-CV-00440

JURY REQUESTED

DEFENDANTS' NOTICE OF REMOVAL

To the Honorable Judges of the United States District Court for the Western District of
Texas, San Antonio Division:

1. Defendant, Dealer's Choice Truckaway System, Inc., dba Truckmovers (“Truckmovers”), by and through its attorneys of record, files this Notice of Removal.
2. On August 27, 2021, this action was commenced against Johnny L. Edson, Truckmovers International, Inc., Truckmovers.Com, Inc., Dealer's Choice Truckaway System, Inc., Individually and dba Truckmovers and Truckmovers, Individually (collectively "Defendants") in the 407th Judicial District Court, Bexar County, Texas and is pending in that court.
3. On or about February 9, 2022, the removing party, Truckmovers was served with a summons and Plaintiff's Original Petition.
4. This action first became removable pursuant to 28 U.S.C. §§ 1332 and 1441 on April 7, 2022, when Plaintiff served her Second Amended Petition and Jury Demand on

Defendants, setting forth for the first time an amount of damages in excess of the jurisdictional threshold for removal. This Notice is filed within thirty (30) days after the receipt of Plaintiff's Second Amended Petition and Jury Demand, and within one year of the date Plaintiff commenced this action by filing her Original Petition. Accordingly, this Notice is timely filed under 28 U.S.C. § 1446(b)(3).

5. Per Plaintiff's Second Amended Petition, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

6. Plaintiff is a citizen and resident of the State of Texas.

7. Dealer's Choice Truckaway System, Inc., dba Truckmovers is incorporated in Kansas with its principal place of business in Missouri. Defendant Edson was contracted with this Defendant at the time of the accident made the basis of this suit. *Exhibit C (Affidavit of Dave Bross)*.

8. Truckmovers.com, Inc. is incorporated in Missouri with its principal place of business in Missouri. This Defendant contracted with Freightliner (Daimler) to move the truck involved in the accident made the basis of this suit. *Id.*

9. Truckmovers International, Inc. is incorporated in Texas with its principal place of business in Missouri. This Defendant has no connection to the accident made the basis of this suit and should therefore not be considered for purposes of federal diversity under a fraudulent joinder/unnecessary party theory. *Id.*

10. There is no independent entity associated with Defendants with the name "Truckmovers." *Id.*

11. Defendant, Johnny L. Edson, is a citizen and resident of the State of Oklahoma.

12. There is total diversity among Plaintiff and the only Defendants with connections to this suit and/or which are in existence, pursuant to 28 U.S.C. § 1332.

13. All Defendants consent to this Removal by and through the undersigned counsel of record.

14. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removal action was pending in the 407th Judicial District Court of Bexar County, Texas. In addition, a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in that district.

15. Pursuant to 28 U.S.C. § 1441(a), copies of all process, pleadings, and orders served on removing party in this action are attached as *Exhibit A – Index to State Court Papers*. Additionally, attached as *Exhibit B* is a *List of Parties and Counsel* relating to this action, and attached as *Exhibit D* is an *Index of Matters Being* filed in this action. Each of these exhibits is incorporated herein and made a part hereof for all pertinent purposes.

16. Pursuant to 28 U.S.C. § 144(d), promptly after Defendant Truckmovers files this Notice, written notice of the filing will be given to Plaintiff and to the Bexar County District Clerk.

WHEREFORE, PREMISES CONSIDERED, Defendant requests that this action be removed from the 407th Judicial District Court of Bexar County, Texas to the United States District Court, Western District Of Texas, San Antonio Division.

Respectfully submitted,

AKERMAN, L.L.P.

By: /s/ Benjamin G. Kemble

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INC., TRUCKMOVERS.COM, INC.,
DEALER'S CHOICE TRUCKAWAY
SYSTEM, INC., INDIVIDUALLY AND
DBA TRUCKMOVERS AND
TRUCKMOVERS, INDIVIDUALLY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded to the following counsel of record via ECF in accordance with the Federal Rules of Civil Procedure this 6th day of May, 2022:

Mr. Aizar J. Karam, Jr.
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/s / Benjamin G. Kemble

Benjamin G. Kemble